Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution	)	GN Docket No. 12-353

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TABLE OF CONTENTS

I. Introduction and Summary

In the weeks since filing their initial comments in this proceeding, AT&T and its supporters have worked diligently to portray the carrier's aims as benign.[1] However, this rebranding effort (no doubt in response to the overwhelming negative reaction to the consequences of its plans)[2] cannot disguise AT&T's central ask and its import: AT&T wants the Commission to declare that all IP-enabled services are inherently interstate

[1] *See* Matthew S. Schwartz, "AT&T Fleshes Out Details of Wire Center Trial Proposal," *Communications Daily*, Feb. 22, 2013 ("AT&T fleshed out several details of its proposed wire center deregulatory trials at an FCBA event Wednesday night, characterizing the petition as a relatively modest request. 'We didn't ask for any particular relief,' said Hank Hultquist, vice president-regulatory affairs. 'We didn't ask to end the world as we know it.' In its upcoming reply comments, AT&T will try to clear up perceptions that it's asking for pre-emption, or 'to end competitors' rates to UNEs [unbundled network elements], or interconnection, or anything else,' Hultquist said. 'We're asking for a fairly narrow trial.'").

[2] *See, e.g.*, Comments of AARP; Comments of the Ad Hoc Telecommunications Users Committee; Comments of Bandwidth.com Inc.; Comments of Broadvox, Inc.; Comments of CBeyond, Earthlink, Integra, Level 3, and TW Telecom (collectively CLEC Comments); Comments of COMPTEL; Comments of the California Public Utilities Commission and the People of California; Comments of Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Hearing Loss Association of America, Association of Late-Deafened Adults, Inc., California Coalition of Agencies Serving the Deaf and Hard of Hearing, Deaf and Hard of Hearing Consumer Advocacy Network, and the Technology Access Program at Gallaudet University; Comments by State Members of the Federal-State Joint Board on Universal Service; Comments of MetroPCS Communications, Inc.; Comments of the National Association of Regulatory Utility Commissioners; Comments of the National Association of State Utility Consumer Advocates; Comments of The National Association of Telecommunications Officers and Advisors, the National Association of Counties, the National League of Cities, and The United States Conference of Mayors; Comments of the National Consumer Law Center; Comments of The Pennsylvania Public Utility Commission; Comments of Members of the Rural Broadband Policy Group *et al.*; Comments of the Schools, Health & Libraries Broadband Coalition; Comments of Sprint Nextel Corporation; Comments of XO Communications, LLC.

information services,[3] and to approve a plan that will end all state and federal regulatory oversight governing our nation's communications infrastructure.

That the mere re-labeling of a service could completely end all oversight of this infrastructure, and effectively delete substantial portions of the Communications Act, serves to illustrate just how unmoored from the law itself the Commission's regulatory approach has been. The Commission's continuing habit of substituting political expediency for the deliberative wisdom of Congress threatens the agency's ongoing validity. And should Title I authority over broadband infrastructure prove to be a house of cards, its collapse would trap consumers and the future of American innovation in the rubble.

At the center of AT&T's request is the premise that the Commission and the states are somehow standing in the way of progress towards a 21st century communications market. AT&T is of course content to ignore the ample evidence that the Commission's refusal to affirm IP-interconnection rights is in fact the primary culprit slowing down the IP transition, to the extent that any such delay actually exists.[4] The law itself is not the problem: to the contrary, the Commission's refusal to *enforce* the law is.

The Act already contains the blueprint for the 21st century. To the extent that there is any doubt about how to move forward it is simply because the Commission has deliberately chosen to ignore the law. Congresses' blueprint, expressed in the 1996 amendments to the Communications Act, was designed to promote more advanced and competitive public telecommunications *networks* – open networks on which consumers

[3] *See* AT&T Petition at 18 ("As AT&T previously has explained, IP-enabled services, including all VoIP services, are appropriately classified as interstate information services over which the Commission has exclusive jurisdiction.").

[4] *See, e.g.*, CLEC Comments at 6-19.

and businesses are protected (by regulators and competitive market forces) from unjust and unreasonable practices and charges.[5] The Commission need not and cannot agree to any set of fundamental principles while yet abdicating its authority and "transitioning" to a regime of total non-regulation. It must instead follow existing law, which speaks directly to the manner in which telecommunications networks should be governed by the principles of non-discrimination, interconnection, universal service, and consumer protection.

The consequences of AT&T's request are not benign, nor are the consequences of the Commission's refusal to treat common carriers as common carriers simply because they utilize newer networking technologies. When Congress amended the Communications Act in 1996, its members believed they were establishing a structure in which public telecommunications networks would grow and continue to serve as a platform for future communications innovations. The Act was not focused on telephones or technologies, and was not chiefly concerned with telecom monopolies. Those who see the debate surrounding the IP transition solely through the lens of its impact on the "phone system" promote a shortsighted view of the law and its purposes. The Act is clear, and designed not only to withstand technological transitions but indeed to promote them.

The record in this proceeding clearly demonstrates that AT&T's "petition to launch" is premature, unnecessary, unfounded, and duplicative of other efforts underway at the Commission. The record also makes it painfully obvious that the Commission's continued refusal to enforce the law in the face of well-capitalized political opposition is

[5] 47 U.S.C. § 160(a).

itself a barrier to progress. The next step for the Commission is clear: it must get its authority house in order.

II. Discussion

A. AT&T has Failed to Demonstrate Why a New Proceeding on the Modernization of the Public Switched Telecommunications Network is Necessary, and Failed to Show How Its Radical Regime of Total Non-Regulation Comports with the Public Interest, the Act and State Laws

AT&T's multipronged attempt to end all state and federal oversight of its communications businesses sometime resembles the act put on by a street magician: it's all deception built on diversion. AT&T implies that its wired network is a drag on profits, even as it reports $20 million in pure profit each day from its wired operation. It implies that granting its laundry list of regulatory favors is necessary to promote investment, when its investment plans are not hindered in any way by these regulations. It bemoans the lack of IP interconnection while it refuses to offer IP interconnection to its competitors that request it. AT&T complains about the substantial cost burden of operating a TDM network but refuses to quantify that burden. It conflates physical plant (copper or fiber) with multiplexing technology (TDM or IP). It conflates market share with market power. And it does all this hoping the audience will not notice the legal impediments standing in the way of its desired outcome of non-regulation.

AT&T's proposal is unprecedented and radical. AT&T wants the Commission to set in motion a series of events that will completely remove the states from any role in overseeing services that are plainly intrastate, in addition to removing the Commission's own regulatory authority. Thus the onus is on AT&T to demonstrate, with evidence, why it is necessary to open a proceeding geared towards this radical outcome – especially considering the fact that all of the specific issues AT&T mentions in its petition, as well

as the topic of the IP-transition itself, are already the subject of Commission proceedings and task forces.

If AT&T's motivation were simply to replace its central office TDM switches with softswitches, it could make this switch to IP freely. Indeed, as Sprint notes, "[l]ong distance carriers and wireless carriers did not require or request regulatory relief to deploy these IP networks; rather, the technology was deployed because of its tremendous cost efficiencies. In local networks, AT&T itself already provides IP voice services to over 2.7 million customers."[6] Thus, it is clear this request is about much more than a technology transition that is already occurring. It is likely, as AARP suggests, about a larger deregulatory agenda that allows AT&T to pick and choose whom it will serve, replacing rate-regulated reliable services with expensive wireless services.[7]

AT&T fails to quantify or identify the specific federal and state regulations it believes are inhibiting the IP transition. AT&T also fails to quantify the incremental cost it incurs as a result of maintaining TDM and IP switching. AT&T also has not identified what percentage of its network contains both functionalities. These omissions are critical, because such data is necessary to measure properly the costs and benefits of AT&T's proposal. This omission is likely by design. To the extent there is any barrier to completing the IP transition, the record here indicates that it is not unspecified costs borne by incumbents due to "legacy" network regulations, but incumbents' abuse of their market power as the Commission stands idle.

AT&T vociferously accuses its competitors of relying on TDM interconnection instead of IP interconnection. But if some of these competitors are to be believed, it is the

[6] Sprint Nextel Comments at 7.

[7] AARP Comments at 11 ("Is forced migration to LTE the real agenda?").

incumbent carriers who are forcing TDM interconnection. For example, Sprint says it has requested IP interconnection from incumbent LECs, to no avail.[8] This undermines one of the central claims in AT&T's duplicative network cost arguments, and suggests that the real problem here is the incumbents' unchallenged market power. It also paints a grim picture of a chaotic future in which non-incumbents lose all of their interconnection rights in an all-IP but regulation-free world.

Sprint also describes how, in Illinois, AT&T has refused to interconnect in IP when asked, with AT&T arguing that the states have no authority over IP interconnection. AT&T told the Illinois regulator that cannot interconnect in IP because it "has no IP network with which Sprint, or any other carrier, can interconnect," something the regulator later found to be "misleading."[9] AT&T's actions before the Illinois commission are a strong indication of the carrier's lack of credibility and its willingness to say anything in order to get its way.[10]

The onus is on AT&T to describe in detail the world in which we live in today, and the world in which it wants us to live, both in terms of the regulatory framework and the physical network infrastructure itself. AT&T implies that current law requires it to maintain "two networks," when there are significant questions about whether this is the

[8] Sprint Nextel Comments at 7 ("With increasing frequency, Sprint and other competitive voice providers are interconnecting their IP networks to exchange voice traffic with each other (although, in Sprint's case, not with any incumbent LECs, despite our efforts to do so).").

[9] *Id.* at 14.

[10] *See, e.g.*, NASUCA Comments at 28-30 (noting that AT&T selectively quoted portions of the National Broadband Plan in order to conform to AT&T's arguments, and submitting that "AT&T's selective quotes and leaving out other portions of the recommendations evidence a lack of candor inconsistent with Section 1.17 of the Commission's rules").

case.[11] Whether or not a network is IP, TDM, or both, the physical outside plant is largely the same, as are the physical assets inside the customer's premise. There simply is no indication that maintaining TDM switching alongside IP switching is a unique burden[12] or that it comes with any substantial incremental cost.[13] AT&T's failure to even describe the supposed burden it faces indicates the prematurity of its petition.

AT&T has also failed to demonstrate why it cannot simply avail itself of the Section 10 forbearance process to rid itself of any regulations that are no longer in the public interest. This could be simply because AT&T already has that base covered with the various petitions filed by its trade association, USTA, and that this instant proceeding is simply a method for having another bite at the deregulatory apple.

And though AT&T is consistent in its pleadings about the supposed "invasive" nature of "legacy" regulations, it has failed to explain exactly why these regulations are

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[11] *See, e.g.*, CPUC Comments at 13 ("Assuming that long-term maintenance of two co-existing networks could be prohibitively costly, could two networks be maintained for purposes of the trials, and, if so, what are the pros and cons of doing so? What is meant by 'two networks' in this context? Does a change of protocols mean a change of networks, or of underlying facilities? Further, what does the word 'network' mean in this context? In what ways do IP-networks depend upon facilities that also provide TDM services such that while the services may change and the transmission protocol be modified, the physical facilities continue to constitute the basis of the network independent of transmission protocols?").

[12] Sprint Comments at 16 ("Any voice service provider that has been in business more than a few years is 'effectively required' to operate and maintain both a legacy network and a newer, more advanced network. Communications technology has been advancing for decades and networks have moved successfully from one technology to the next without the need for a wholesale elimination of regulatory oversight.").

[13] In the U.K., the incumbent claims that such incremental costs are "insignificant." *See* Regulation of VoIP Services, Statement and further consultation, Ofcom, February 22, 2006, at ¶¶ 3.38, 3.40 ("BT argued that the costs of interworking are not prohibitive since they have not deterred some operators from investing in NGNs, and that the conjecture that such costs inhibit adoption of new technology is therefore flawed. It said that the cost of signal conversion via a media gateway is an insignificant proportion of call costs, and would not deter early movers from investing to reap the cost advantages of the new technology.").

no longer necessary to promote the public interest consistent with the Communications Act and various state laws. Perhaps this is because these regulations are not as onerous as AT&T argues in its pleadings. Indeed, on the same day that AT&T filed its petition, its CEO stated that even after AT&T transitions to an all-IP network, that "all of the carrier-of-last resort obligations can be met. The service quality and then capabilities can be met with the IP and the wireless capabilities that you see in place up here."[14] These comments make it quite clear that the very same service obligations AT&T's lawyers are asking the states and the Commission to eliminate can in fact be met with new technologies.[15] This is of course an obvious point, and highlights the danger of the Commission granting AT&T's wishes without clarifying the basis of the agency's continuing legal authority.

Finally, AT&T has not demonstrated that the Commission even has the legal authority to create miniature regulation-free zones in order to carry out AT&T's request for a wire center "experiment," nor that such an experiment is even necessary to answer questions about facilitating the transition to next generation networks. We suggest that if the Commission were interested in trial-by-error, that it could conduct similar experiments of faithful implementation of the Communications Act, where broadband transmission is reclassified as a telecommunications service, and where the substantial

[14] Comments of Randall L. Stephenson, Chairman, President & Chief Executive Officer, AT&T, Inc., AT&T, Inc. Analyst Conference, Nov. 7, 2012 (*AT&T Analyst Conference*).

[15] Indeed, Stephenson also stated at the same event, "[a]nd just very specifically, we've got to make sure that our regulations aren't tied to specific technologies, but more to services." We agree on this point, and note that the Communications Act itself is certainly not concerned with technology, but with telecommunications services, ones that the law envisioned the spawn of Ma Bell continuing to provide even as technology progresses.

shortsighted deregulations of the *Triennial Review*, *Wireline Broadband Order*, and *Enterprise Forbearance Orders* are all reversed.[16]

B. AT&T Freely Admits that The Radical Regulatory Changes it Seeks Will Not Lead to Increased Network Investment

In its Comments, AT&T states that denying its petition "would accomplish nothing beyond investment-deterring regulatory inertia."[17] That the Commission's rules impede investment is a major theme of AT&T's petition,[18] and its supporters' comments.[19] However, as AT&T freely admits to its own Wall Street investors, the rules and regulations maintained by the Commission and the states regarding TDM interconnection have absolutely no impact on AT&T's wireless or wireline network investment decisions. These decisions are premised on a view of the market, and in the case of wireline, largely driven by geographic and demographic concerns.[20]

On the same day AT&T filed its petition alleging that it faces unique regulatory burdens that prevent it from investing in next generation technology, it also announced that it was going to invest additional capital so it could bring "high-quality IP-based

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[16] *See, e.g.*, CLEC Comments at 19. ("If, however, the Commission were to somehow decide – contrary to all of the proposals set forth in these comments and common sense generally – to conduct the wire center experiment examining the effects of deregulation as AT&T suggests, the Commission must also conduct similar wire center experiments examining the effects of applying robust updated competition policies to a packet-mode environment.").

[17] AT&T Comments at 11.

[18] *See, e.g.*, AT&T Petition at 4.

[19] *See, e.g.*, Comments of Verizon and Verizon Wireless ("[T]he Commission should remove a number of legacy regulations that impede broadband deployment and the TDM-to-IP transition, and should not adopt any new regulations *that would likewise* have a deleterious effect on broadband investment and competition." (emphasis added)).

[20] *See, e.g.*, Comments of John T. Stankey, Group President & Chief Strategy Officer, AT&T, Inc., AT&T Analyst Conference, Nov. 7, 2012. ("Further, we believe the long-term structure of the wireline broadband market in geographies of reasonable density is attractive and worthy of investment.").

broadband services to 99 percent of all customer locations" within its service area.[21] Now, as we discuss below, it is true that much of this investment is actually to support AT&T's long-planned LTE deployment, not upgrades of its DSL business (which its CEO once called an "obsolete technology").[22] But AT&T's actions – committing to an IP investment plan while simultaneously warning the FCC of a dire future for IP investment – are emblematic of its approach towards policymakers. AT&T has a track record of using a combination of threats and promises to convince regulators to give AT&T exactly what it wants. Recall that just over a year ago, AT&T was telling anyone who would listen that it would deploy 4G LTE services to 97 percent of the country *only if* the Commission would let it acquire T-Mobile. As the evidence showed, however, AT&T had already planned to make that deployment, regardless of any merger approval. It didn't need any regulatory favors to do so, as the company confirmed its plans to deploy 4G LTE to more than 300 million Americans by the end of 2015.

Thus, the Commission – and those commenters inclined to accept AT&T's rhetoric at face value – should recognize that there is ample reason to be skeptical of AT&T's promises and pleadings. Though AT&T now boasts its commitment to invest "$14 billion," and some of its supporters in this docket inflate this to "$66 billion" by reporting AT&T's *total* planned capital expenditures for three years,[23] the truth is that AT&T appears to be committing to less than a billion dollars in *new* incremental investment above its existing plans. To begin, AT&T's $14 billion investment figure includes $8 billion in capital to bring its 4G LTE coverage from 250 million POPs to 300

[21] *See* "Laying a Foundation for Future Growth," AT&T Analyst Conference, Nov. 7, 2012 ("AT&T November 7th Slide Deck").

[22] Karl Bode, "AT&T CEO Calls DSL 'Obsolete,'" *DSL Reports*, July 19, 2011.

[23] *See* Comments of MMTC *et al.* at 4.

million POPs. But as the Commission found in its rejection of AT&T's proposed takeover of T-Mobile, this was an investment AT&T had already planned.[24] Only the remaining $6 billion of the $14 billion is for AT&T's wireline network. However, only half of the $6 billion is for U-Verse deployments, and only $1 billion of that is for new U-Verse deployments beyond AT&T's existing plans.[25] This is why the typically loathsome-of-investment Wall Street analysts are not punishing AT&T's stock based on its recent announcement: AT&T's actual investments as a percentage of revenues are not changing.[26]

Thus, it is clear that AT&T's IP investment plans are set and will move forward whether or not the Commission acts on AT&T's petition. This is because AT&T's

[24] *See, e.g.*, In the Matter of Applications of AT&T Inc. and Deutsche Telekom AG For Consent to Assign or Transfer Control of Licenses and Authorizations, *Order*, WT Docket No. 11-65, 26 FCC Rcd 16184, 16185 (2011) ("The staff additionally identifies internal AT&T documents and consistent historical practices that contradict AT&T's claim that merging with T-Mobile is essential for AT&T to build out its LTE network to 97 percent of Americans."); *see also* Karl Bode, "Leaked AT&T Letter Demolishes Case for T-Mobile Merger," Aug. 12, 2011.

[25] *See* Mari Rondeli, "U-Verse video expansion limited despite new wave of upgrades," *SNL Kagan*, Nov. 27, 2012 ("However, the announced plan favors wireless technology and does not amount to a meaningful expansion in AT&T's facilities-based triple-play footprint." [...] "The remaining $6.0 billion is intended for its wireline network and includes an extension of its U-verse footprint to an additional 8 million households from its current levels, but only an additional 3 million from its previously announced plans."); *see also* Comments of John Stephens, Chief Financial Officer & Senior Executive VIP, AT&T, Inc., AT&T Inc. Analyst Conference, Nov. 7, 2012 ("Our wireline investment will be $6 billion. About half of that goes to expand U-verse to 8.5 million more customer locations. The cost per customer location is roughly equal to what we experienced at the end of our original build. The other half will be used to meet customer demands for new services, to expand our IPDSLAM coverage, to provide major speed upgrades, and to drive fiber deeper through the network.").

[26] *See* Comments of Randall Stephenson at the AT&T, Inc. Analyst Conference ("The investment required for these investments is very manageable when you consider the cash flow-generating capacity of the business. Over the next three years, we expect CapEx toward the upper end of our current midteens capital intensity target. It will be about $22 billion a year. And we get additional flexibility as we take advantage of historic low interest rates."); *see also* AT&T November 7th Slide Deck at 97.

investment decisions are not in any way deterred by so-called "legacy" regulations (though its ability to return greater value to its shareholders in the form of monopoly rents may be impacted by such regulations). AT&T's decisions about how, when and where to upgrade its legacy infrastructure are largely driven by geography and market demographics, not regulatory obligations. AT&T has determined that 75 percent of its footprint is worthy of seeing U-Verse or IP-DSLAM deployment; everywhere else is a location with density too low and loop lengths too long to justify investment. (This of course does not mean it would not be profitable to deploy in many of these remaining areas; just that AT&T deems it not profitable *enough*.) For the 25 percent of AT&T customers that are not currently served and will not be served by its wireline IP network, AT&T's plans means expensive LTE bundles or nothing. For these millions of consumers, and the tens of millions of others that stand to lose service or see massive rate increases because of the regulatory consequences of AT&T wishes, AT&T's plans are anything but "an unprecedented boon for consumers."[27] That AT&T's plans will devastate communications industry workers is yet another sign the Commission should proceed with extreme caution.[28]

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[27] AT&T Comments at 2.

[28] The local California chapters of the Communications Workers of America strongly opposed SB-1161, a similar deregulatory effort. *See* "SB-1161 Stinks!," CWA Local 9588, May 7, 2012 ("AT&T is sponsoring another corporate power grab at the expense of California consumers and CWA workers.... California Senate Bill 1161 would end enforcement of basic consumer protections – like service quality standards, protection against 'cramming' your phone bill with extra charges, and help resolving customer complaints. No more protection for low-income customers, like "LifeLine," and low cost service to rural customers. No universal access for under-represented communities. No enforcement of privacy rights. No contract review with women, minority, and disabled veteran–owned businesses. It's a nightmare for consumers, and it's a job-killer for CWA members. It just plain stinks! Who would benefit if SB 1161 passed? AT&T, Verizon, Comcast, and other corporations who are right now reaping huge profits, evading taxes,

In sum, the total elimination of regulation that AT&T seeks will not increase the ILECs' wireline investment calculus at all; it will simply facilitate the exit of ILECs from the wireline market.

C. The Commission Needs to Get its Authority House in Order

AT&T's petition raises a number of difficult federal-state jurisdictional issues.[29] The Commission has the power to make these issues all go away with a stroke of the pen and a reversal of its improper "information service" classifications. Whatever the Commission does in that regard and in the long term, however, the path of least resistance preferred by AT&T is not the correct one.

Consider two consumers living next door to each other in an apartment complex. Consumer A subscribes to basic wireline voice service offered by AT&T over its TDM network, and Consumer B subscribes to voice service offered by AT&T over its U-Verse IP network. Both consumers make a voice call to order a pizza from a restaurant located next door. Both voice calls are routed over AT&T's closed network, and neither call ever physically crosses state lines. According to AT&T's logic put forth in its pending request before the Commission, Consumer A is making an intrastate call that is subject to state

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and slamming workers."). AT&T has made it clear that lowering operating costs is a goal of its IP transition plans. *See, e.g.*, Comments of John T. Stankey, Group President & Chief Strategy Officer, AT&T, Inc., AT&T Analyst Conference, Nov. 7, 2012 ("Finally, we believe the best service is afforded through an IP-only infrastructure and a streamlined product set. This simplification not only provides the right capabilities for our customers with a world class customer experience, but improves operating costs and market agility. Retiring our legacy TDM infrastructure enables reduction of information technology complexity in delayering of costly network infrastructure. This rationalization allows for quicker response to market demands and more flexibility in evolving emerging monetization models."). While grant of AT&T's petition could lead to such cost savings for the company, there is no reason to believe that any of these savings would be passed onto AT&T's customers in the form of lower prices. Just the opposite.

[29] *See e.g.* NASUCA at 17-18.

regulations, while Consumer B is not making a call at all. She's engaging in the use of an interstate information service that is not subject to state authority nor Commission authority under Title II of the Communications Act.

This example highlights the absurdity produced by the Commission's failure to implement the Communications Act faithfully. That two services with *identical functions* can receive such disparate regulatory treatment, based solely on the underlying network technology, illustrates the fundamental problem with the Commission's foray into a world of non-regulation. Before the Commission drags consumers and the states further into this regulatory twilight zone, it needs to get its regulatory house in order.

The National Broadband Plan recognized that the Commission has unanswered questions about its authority, and suggested that the agency would in fact answer these foundational questions as it proceeded with implementation of the plan.[30] However, the Commission has shown no sign that it is willing to entertain these politically difficult but legally straightforward questions. AT&T's petition and the existential quandaries it raises make it abundantly clear that the Commission does not have the luxury of letting VoIP, SMS, IP-transmission and other services reside forever in a classification limbo.

The Commission should reject AT&T's petition as incomplete, unsupported, premature, redundant, and unnecessary. But in order to ensure that all Americans are enjoying the benefits of a world-class open telecommunications network, the Commission must resolve these authority questions. It is *not* enough to agree on lofty goals ("competition") or a particular end-state ("all-IP"), nor is it appropriate or wise to

[30] National Broadband Plan at 337.

assume that the Commission has adequate authority under Title I of the Act to ensure these goals will be achieved consistent with the public interest.

III. Conclusion

Make no mistake, AT&T's request is not about increasing network efficiency; it is not about promoting investment; and it is most certainly not about benefiting consumers or increasing competition. It is simply AT&T's latest attempt to remove all state and federal oversight governing its communications business. Recent history indicates that letting AT&T exercise its market power is a recipe for disaster. After California partially deregulated AT&T in 2006, the price of some basic voice services tripled.[31] That was just *partial* deregulation. If all state and federal authority goes away, consumers should expect the same and worse. Seniors, low-income families and rural residents, all of whom are more likely to rely on fixed-line voice services or dial-up Internet access, will particularly feel the immediate pinch.[32]

But the harmful impacts of AT&T's plan will not stop with landline customers. Brinksmanship between the large ILECs and smaller wireless carriers that use the public network to transport their own traffic would lead to telecom blackouts in the same way we see cable customers held hostage in many programmer-distributor carriage spats. If

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[31] *See* James Temple, "AT&T Rates Skyrocket Since Deregulation," *San Francisco Chronicle*, Jan. 18, 2013.

[32] Over half of the homes that rely solely on a landline for voice service are households with incomes below $30,000 annually, according to Free Press analysis of U.S. National Health Interview Survey Data, obtained from the Integrated Health Interview Series, www.ihis.us/ihis/. This data also indicates landline only users are more likely to be seniors. Census data indicates that lower incomes are positively correlated with use of dial-up Internet access, and that seniors are also more likely to rely on dial-up. *See* "Exploring the Digital Nation: Computer and Internet Use at Home," National Telecommunications and Information Administration, U.S. Department of Commerce, Nov. 2011.

AT&T's plans become reality, there would be no agency with the authority to help consumers in these disputes, or even to require that carriers maintain reliable network access.

And all Americans should be concerned about the loss of the open, non-discriminatory public switched telecommunications network – a network whose openness, mandated by public policy, is directly responsible for the innovations that created the Internet itself.

We stand at the edge of a cliff, and AT&T is eager to jump. But it is the Commission's own bad decisions that led us to this cliff. It is not too late to step back.

Respectfully submitted,

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